

Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL.)

April 24, 2007

Dear Sir or Madam:

It has come to our attention that an advertisement for ABC, printed in the NEWSPAPER and received by our office, (copy enclosed) makes a statement that customers making purchases at "all stores plus the outlet" pay "No Sales Tax No Exceptions" on their purchases. A footnote points out that "we pay the equivalent of your sales tax on furniture and accessories."

Please consider this letter as fair notice that this conduct violates the provisions of the Use Tax Act. See 35 ILCS 105/3-45. This Section of the Use Tax Act requires Illinois retailers to collect the Use Tax from purchasers by adding the tax to the selling price of the tangible personal property when sold for use. Section 7 of the Use Tax Act states:

"It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by Section 3 hereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise's being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under the Retailers' Occupation Tax Act or under this Act. Any person violating any of the provisions of this Section within this State shall be guilty of a Class A misdemeanor." 35 ILCS 105/7.

As indicated above, it is a Class A misdemeanor for a retailer to advertise that he will pay the sales tax on a purchase or that the tax will not added to the selling price. The Department's regulations found at 86 Ill. Adm. Code 150.515 reflects this statutory prohibition. While we do not want to interfere with your advertising techniques, under the circumstances, we are compelled to do so. You should immediately cease advertising that no sales tax will be incurred. Any future advertisements of this kind will be viewed as a continuing violation, which could result in criminal prosecution.

If you require additional information, please visit our website at www.tax.illinois.gov or the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Martha P. Mote

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Associate Counsel

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